

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
DANIEL MILES,

Civil Action No.:

Plaintiffs,

-against-

COMPLAINT

PORTFOLIO RECOVERY ASSOCIATES, INC.,

DEMAND FOR JURY TRIAL

Defendant(s).
-----X

Plaintiff DANIEL MILES ("Plaintiff"), by and through his attorneys, M. Harvey Rephen & Associates, P.C. by Edward B. Geller, Esq., P.C., Of Counsel, as and for his Complaint against the Defendant, PORTFOLIO RECOVERY ASSOCIATES, INC. (hereinafter referred to as "Defendant(s)"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff DANIEL MILES is a resident of the State of New York, residing at 96 Eisenhower Avenue, Brentwood, New York 11717.

3. Defendant PORTFOLIO RECOVERY ASSOCIATES, INC. is a corporation doing business in Virginia with its main office at 120 Corporate Boulevard, Norfolk, VA 23502.

4. The Plaintiff is a “consumer” as the phrase is defined and used in the FDCPA under 15 USC §1692a(3).

5. Defendant is a “debt collector” as the phrase is defined and used in the FDCPA under 15 USC §1692a(6).

JURISDICTION AND VENUE

6. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

8. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “7” herein with the same force and effect as if the same were set forth at length herein.

9. Upon information and belief, Defendant, on behalf of a third-party or itself as purchaser of the debt, began efforts to collect an alleged consumer debt from the Plaintiff.

10. Upon information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communications with the Plaintiff on February 28, 2014 by placing a telephone call to telephone number 631 273 0990 and leaving a voice message.

11. Defendant’s message identified Defendant as a debt collector calling Plaintiff in an attempt to collect a debt, and requested a call back to number 866 428 8102.

12. On March 13, 2014, Defendant placed another telephone call to Defendant and left the same message except that the representative caller for Defendant identified herself as "Cheryl."

13. The recorded greeting at the aforementioned number (i.e., "You have reached the Miles', we are unavailable, please leave a message") explicitly states that the caller has reached a family telephone which is in use by multiple individuals in the home.

14. The Defendant's two messages were overheard by Plaintiff's son, Divine Miles, who consequently learned that a debt collector was attempting to reach his father regarding an debt.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

15. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "14" herein with the same force and effect as if the same were set forth at length herein.

16. 15 USC §1692c (b) prohibits a debt collector from disclosing to a third party without permission from the consumer that the consumer is being contacted by a debt collector concerning a debt.

17. Defendant violated 15 USC §1692c(b) by twice communicating to the Plaintiff's son, Divine Miles, that the Plaintiff was being contacted by a debt collector about a debt.

18. As a result of Defendant's neglect in leaving a message on a voice mail which is accessible to third parties, Plaintiff suffered extreme embarrassment and distress and according to 15 USC §1692k(a)(1), Defendant is liable to Plaintiff for damages sustained

as a result of their failure to comply with §1692 et seq. of Title 15 of the United States Code (the FDCPA).

DEMAND FOR TRIAL BY JURY

19. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendant as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs,

expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
November 10, 2014

Respectfully submitted,



Edward B. Geller, Esq. (EG9763)
Edward B. Geller, Esq., P.C., Of Counsel to.
M. HARVEY REPHEN & ASSOCIATES, P.C.
15 Landing Way
Bronx, New York 10464
Phone: (914)473-6783

Attorney for the Plaintiff DANIEL MILES

To: Portfolio Recovery Associates, Inc.
120 Corporate Blvd.
Norfolk, Virginia 23502
(Via Prescribed Service)

Clerk
United States District Court, Eastern District of New York
(For Filing Purposes)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CASE NO.:

DANIEL MILES,

Plaintiff,

-against-

PORTFOLIO RECOVERY ASSOCIATES, INC.,

Defendant(s).

COMPLAINT

Edward B. Geller, Esq., P.C., Of Counsel to
M. HARVEY REPHEN & ASSOCIATES, P.C.
15 Landing Way
Bronx, New York 10464
Phone: (914)473-6783